

December 12, 2024

VIA FINRA DR PORTAL

Shubhangi Nangunoori
FINRA Dispute Resolution Services
300 South Grand Avenue, Suite 1700
Los Angeles, California 90071

Re: *Jeffrey Dewees, et al. vs. Merrill Lynch Pierce Fenner & Smith Inc.*
FINRA Case ID: 24-02157

Dear Ms. Nangunoori:

This firm represents Claimants Jeffery DeWees, Reinhold Wigand, Jay Tamkoc, William Schellenberg, Matthew Mendoza, Luke McKelvy, and Alon Haim in the above-referenced arbitration. This letter serves as Claimants' response to Merrill Lynch's "motion to stay" dated December 2, 2024, and provides notice pursuant to FINRA Rule 13204(a)(2) that Claimants will not participate in the class action or in any recovery that may result in the class action.

As a preliminary matter, Merrill Lynch's "motion to stay" is improper under the FINRA Rules, which neither contemplate nor permit such relief at this stage of the proceedings. It should be denied on this basis alone.

Further, FINRA Rule 13204(a)(2) states:

- (2) Any claim that is based upon the same facts and law, and involves the same defendants as in a court-certified class action or a putative class action, or that is ordered by a court for class-wide arbitration at a forum not sponsored by a self-regulatory organization, shall not be arbitrated under the Code, **unless the party bringing the claim files with FINRA one of the following:**

....

- (B) a notice that the party will not participate in the class action or in any recovery that may result from the class action.**

(emphasis added).

EMPIRE STATE BUILDING
350 FIFTH AVENUE, SUITE 4640
NEW YORK, NY 10118

CONNECTICUT OFFICE
2425 POST ROAD, SUITE 200
SOUTHPORT, CT 06890

Claimants hereby provide notice, pursuant to FINRA Rule 13204(a)(2), that they will not participate in the class action or in any recovery that may result from the class action pending against Merrill Lynch in the Western District of North Carolina, *Miligan v. Merrill Lynch, Pierce, Fenner & Smith, Inc., et al.*, No. 3:24-cv-0044000 (W.D.N.C).

As Claimants have met the requirements of FINRA Rule 13204(a)(2), Claimants respectfully request that the Director deny Merrill Lynch's "motion to stay" in its entirety and refer any dispute to the Panel pursuant to FINRA Rule 13204 (a)(3).

Claimants will not be addressing any of the irrelevant issues, claims or facts in Merrill Lynch's "motion to stay" as they are unnecessary for the purpose of moving the arbitration forward.

Claimants reserve any and all rights.

Respectfully submitted,

/s/ Barry R. Lax

Barry R. Lax, Esq.

LAX & NEVILLE LLP